IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 15TH NOVEMBER 2006 / 24TH KARTHIKA 1928

WP(C).No. 42 of 2006()

PETITIONER:

1. SONI SEBASTIAN T.,
   LECTURER (SELECTION GRADE),
   DEPARTMENT OF MATHEMATICS, NIRMALA COLLEGE,
   MUVATTUPUZHA.

2. V.C. JAMES, LECTURER (SELECTION GRADE)
   DEPARTMENT OF HINDI, NIRMALA COLLGE,
   MUVATTUPUZHA.

BY ADV. SRI.M.C.CHERIAN
SMT.SARAMMA CHERIAN
SMT.ASHA CHERIAN
SRI.P.M.SANEER
SRI.E.D.GEORGE

RESPONDENTS:

1. DEPUTY DIRECTOR OF COLLEGIATE
   EDUCATION, CENTRAL ZONE, HOSPITAL ROAD,
   ERNAKULAM.

2. SUB-TREASURY OFFICER,
   MUVATTUPUZHA.

3. THE PRINCIPAL, NIRMALA COLLEGE,
   MUVATTUPUZHA.

4. THE REGISTRAR, MAHATMA GANDHI
   UNIVERSITY, KOTTAYAM.

R1 & R2 BY GOVT. PLEADER SRI SHYSON P.MANGUZHA

R4 BY STANDING COUNSEL SRI V.A.MUHAMMED
BY ADV. SRI.V.M.KURIAN
SRI.A.V.THOMAS
SRI.MATHEW B. KURIAN
SRI.K.T.THOMAS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF ORDER NO.G.O.(P).NO.59/2004/H.EDN. DTD. 7/6/2004 OF GOVT. OF KERALA.

EXT.P2 TRUE COPY OF ORDER NO.AC.BV/4/150/2003 DTD. 22/11/2003 OF M.G.UNIVERSITY.

EXT.P3 TRUE COPY OF ORDER/LETTER NO.B3-3068/05 DTD. 18/11/2005 OF 1ST RESPONDENT TO 3RD RESPONDENT.

EXT.P4 TRUE COPY OF ORDER NO.AC.BV/2/543/03 DTD. 9/3/2004 OF M.G.UNIVERSITY.

EXT.P5 TRUE COPY OF ORDER/LETTER NO.B3-9557/04 DTD. 25/4/2005 OF IST RESPONDENT TO 3RD RESPONDENT.

EXT.P6 TRUE COPY OF LETTER NO.17993/D3/98/H.EDN. DTD. 28/5/1999 OF GOVT. OF KERALA.

EXT.P7 TRUE COPY OF INTERIM ORDER DTD. 8/8/2002 IN C.M.P.NO.32372/2002 IN O.P.NO.18972/2002.

EXT.P8 TRUE COPY OF JUDGMENT DTD. 26/9/2005 IN W.P. (C).NO.16495/2005 OF THIS COURT.

RESPONDENTS' EXTS:

EXT.R1A TRUE COPY OF CLARIFICATION DTD. 29/4/2005.

EXT.R1B TRUE COPY OF CLARIFICATION ISSUED BY THE UNIVERSITY DTD. 19/12/2005.

EXT.R1C TRUE COPY OF THE LETTER NO.5617/C3/2006/H.EDN. DATED 20/3/2006.

EXT.R4A TRUE COPY OF THE ORDER NO.AC.B V-1-798/05 OF THE UNIVERSITY DTD. 19/12/2005

P.R.RAMAN, J.

W.P.(C).NO.42 OF 2006

Dated this the 15th day of November, 2006

JUDGMENT

The petitioners were initially promoted as Lecturers (Senior Scale) on completion of 8 years of service, and thereafter as Lecturers (Selection Grade) on completion of further service of three years as Lecturers (Senior Scale) by the University. Admittedly they were paid salary and arrears on such promotion as Lecturers (Senior Scale). They are also being paid salary and increments in the post of Lecturers (Selection Grade). However, the department objected payment of arrears to the petitioners on the ground of broken service. Admittedly, the broken period of service, which was not counted for payment of arrears of salary, was not in the institution referred to in G.O.(P)No.171/99/H.Edn dated 21/12/1999.

A similar case, W.P.(C).No.16495/2005, came up for consideration before this Court and this Court, after considering the rival submissions, held that the restriction imposed as per the above Government Order will apply, only if the petitioners' claim of broken service rendered in such institution as is referred to in that Government Order and will not apply to the broken service rendered in the University. Though a writ appeal was preferred as W.A.No.197/2006 to this Court, the same was dismissed confirming the view taken by the learned Single Judge. The facts stated in this case are similar to the facts in W.A.No.197/2006 and as such the matter is squarely covered by the above decision. Accordingly, the benefit of the judgment in W.A.No.197/2006 is to be extended to the petitioners herein also. In the circumstances,

there will be a declaration that the petitioners' broken period of service be counted for computing the length of service for payment of arrears of salary. Consequential orders sshall be passed by the lst respondent, as expeditiously as possible, at any rate, within a period of one month.

A copy of this judgment shall be produced by the petitioner before the lst respondent for information and compliance.

Writ Petition is disposed of as above.

P.R.RAMAN,
JUDGE.

kcv.